

ELECTION

Pursuant to the Restriction Requirement of the Examiner, the Applicants hereby elect, with Traverse, Claim 13, drawn to a method, classified in Class 264, subclass 3.1+.

REMARKS

The claims are 6 to 15. The Claims stand subject to a Restriction Requirement, discussed more fully hereinbelow, and under which the Applicants have elected, with Traverse, to pursue Claim 13, drawn to a method, and classified in Class 264, subclass 3.1+. Claims 6-12, 14 and 15, drawn to a product, and classified in Class 102, subclass 283, are assumed to be withdrawn from consideration. Applicants reserve the right to pursue patentability of these claims in a subsequent application.

All claims stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which the examiner believes was not described in the Specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In addition, the Examiner has raised several procedural points. The first of these is an objection to the line spacing of the claims as submitted in the Preliminary Amendment filed with the Present Application. A new set of Claims, meeting the Examiner's line spacing requirements, is filed herewith. Further, the Examiner has required a Supplemental Oath, and such an Oath has been prepared and filed herewith.

With respect to the Restriction Requirement, the Applicants have made the required Election. However, Applicants note that Restriction may not be appropriate in the present instance, and submit that, if only for reasons of economy to the Office, all claims should remain together. Certainly, a complete search of the prior art for either species would include the same subject matter as a search for the other species, and the Office will be put to further effort unnecessarily. For this reason the Examiner's Requirement for Restriction is traversed in its entirety and Reconsideration is requested.

With respect to the rejection under 35 U.S.C. § 112, first paragraph, it is respectfully submitted that the Examiner's position in this regard appears unfounded. The present claims were drafted by the Applicants' undersigned Attorney with no reference other than the present Specification, and all elements of the claims as presently submitted came from that document. In particular, the second full paragraph of the Summary of Invention, on page 4 of the Specification, begins:

"The propellant comprises an oxetane thermoplastic elastomer energetic binder admixed with a high energy explosive filler."

And later, in the first full paragraph on page 5:

“...a pair of high energy propellants may be combined to produce a propellant mixture having a first propellant having a burning rate at least three times faster than the burning rate of the second propellant.”

The Specification concludes, in the second paragraph of page 10:

“The data shows that high energy gun propellants at an energy level of 1300 J/g can be formulated with an Oxetane binder in combination with high energy fillers. Desirable burning rates with burn rate differential by a factor of 3 or more can be obtained from these formulations.”

The present claims merely detail the specific classes of compounds that can be best employed in the present invention. A review of the original claims, Claims 1 to 5 of the parent application, will show that a mixture of propellants having different burning rates has heretofore been claimed. It is not seen how a position that the present claims are not supported in the Specification can be advanced.

Nor is it seen how the present Application can be viewed as anything other than a Continuation, when no matter has been added. The claims, in their present form, derive their entire substance from the Specification as originally filed, and though they define the invention with greater particularity, contain no limitations not found in the original Specification.

The Examiner is expressly solicited, therefore, to withdraw any objections in this regard, and examine the claims over the art. Allowance is respectfully solicited.

WHEREFORE, in consideration of the above amendments and arguments, examination and allowance are respectfully requested.

Respectfully,



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